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8	BEFORE THE BOARD OF REGISTERED NURSING
9	DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
. 11	In the Matter of the Accusation Against: Case No. 4011-785
12	JAMES FREDERICK ALLEN
13	417 Tampico Way Pensacola, FL 32506 A C C U S A T I O N Pagistanad Nunsa Liconso No. 616926
14	Registered Nurse License No. 616926 Respondent.
15	Respondent
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17	Complainant alleges:
18	<u>PARTIES</u>
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20	official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21	Consumer Affairs.
22	2. On or about April 9, 2003, the Board of Registered Nursing issued Registered Nurse
23	License Number 616926 to James Frederick Allen (Respondent). The Registered Nurse License
24	expired on May 31, 2005, and has not been renewed.
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JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), of the Code, the Board may renew an expired license at any time within eight years after the expiration.
- 6. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

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COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Out of State Discipline) (Bus. & Prof. Code § 2761, subd. (a)(4))

Respondent has subjected his registered nurse license to disciplinary action 9. under Code section 2761, subdivision (a)(4), in that on or about April 22, 2009, in a disciplinary action before the Louisiana State Board of Nursing (Louisiana Board), the Louisiana Board entered a Consent Order with Respondent suspending his registered nurse license and staying the suspension upon his successful completion of a minimum of three years of probation with stipulations. The Consent Order required Respondent to: (1) continue to adhere to the Recovering Nurses Program (RNP) Agreement signed on August 20, 2008; (2) continue to submit to all recommendations of the therapist, physician, or treatment team, and cause to have submitted evidence of continued compliance with all recommendations by the respective professionals; (3) prior to beginning or returning to work, notify all nursing employers of the Consent Order; (4) cause each employer to submit a signed Employer's Agreement to the Louisiana Board; (5) work in a restrictive environment as a member of a treatment team rather than alone or with a few employees; (6) not be employed in any unsupervised setting and work only under the direct supervision of an on-site registered nurse; (7) not be employed by an agency, pool, or staffing company, home health services, or nursing homes; (8) have all immediate nursing supervisors submit a monthly performance evaluation report, commencing on the first date of employment; (9) remain free of alcohol and all un-prescribed mood altering substances; (10) submit to supervised random drug screens for a minimum of 12 times per year through a Louisiana Boardapproved laboratory; (11) immediately inform the Louisiana Board in writing of any change in address and of all places of employment; (12) engage in the practice of professional nursing in

Louisiana for a minimum of 24 hours-per-week for a minimum of 18 consecutive months; (13) by the first of each month, submit a monthly probation fee to the Louisiana Board; and (14) not have any misconduct, criminal violations, convictions, or violations of any health care regulations. On or about June 10, 2009, the Louisiana Board entered an Order approving and accepting the Consent Order.

10. The underlying conduct supporting the Louisiana Board's disciplinary action is that on or about August 13, 2008, Respondent was arrested by the Baton Rouge Sheriff's Office for theft of over \$200.00, sale and use of narcotic/paraphernalia sale and use, and possession of Schedule II drugs. On or about August 15, 2008, Respondent self-reported to the Louisiana Board that he had a problem with substance dependence and admitted himself for inpatient evaluation the following day. On or about August 20, 2008, Respondent entered the RNP and subsequently completed the inpatient treatment during which time he was diagnosed with alcohol and opiate dependence, in early remission. On or about December 8, 2008, Respondent was cleared to return to nursing practice.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 616926, issued to James Frederick Allen;
- 2. Ordering James Frederick Allen to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

1	3. Taking such other and further action as deemed necessary and proper.
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3	DATED: CMarch 18 Doll Journa L. Bailey
4	Executive Officer
5	Board of Registered Nursing Department of Consumer Affairs State of California
6	State of California Complainant
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